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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/868,086	06/14/2001	Christian Prehofer	112740-157	5724
29177	7590	12/17/2004	EXAMINER	
BELL, BOYD & LLOYD, LLC P. O. BOX 1135 CHICAGO, IL 60690-1135			PATEL, JAY P	
			ART UNIT	PAPER NUMBER
			2666	

DATE MAILED: 12/17/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/868,086	Applicant(s) PREHOFER, CHRISTIAN	
	Examiner Jay P. Patel	Art Unit 2666	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 2 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
 - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
 - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
 - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 14 June 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☒ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 8-14 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 8-14 is/are allowed.
- 6) ☐ Claim(s) _____ is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 6/14/2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. A telephone call was made to William E. Vaughan on December 3rd, 2004 to request an examiner's amendment in order to place the application in condition for allowance, but did not result in an authorization being granted.

2. This application is in condition for allowance except for the following formal matters:

3. The disclosure is objected to because it contains an embedded hyperlink and/or other form of browser-executable code. Applicant is required to delete the embedded hyperlink and/or other form of browser-executable code. See MPEP § 608.01.

a. On page 3, lines 15 and 14 the hyperlink (Internet page: <http://www.ietf.org/internet-draft/draft-nichols-dsopdef-00.txt>) should be deleted.

b. On page 4 lines 4 and 5 the hyperlink (Internet page: <http://www.ietf.org/internet-draft/draft-ietf-diffserv-arch-00.txt>) should be deleted.

c. On page 4 lines 8 and 9 the hyperlink (Internet page: <http://www.ietf.org/internet-draft/draft-ietf-diffserv-framework-01.txt>) should be deleted.

4. Claim 8 is objected to because of the following informality: On page 12 line 30 the last word "a" should be changed to "the". Appropriate correction is required.

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5. Claims 9-14 are objected to because of the following informalities: The above-mentioned claims are dependent on either independent claim 8 or dependent claim 9; therefore, they must begin with "The" instead of "A".

Appropriate correction is required.

Prosecution on the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

A shortened statutory period for reply to this action is set to expire **TWO MONTHS** from the mailing date of this letter.

Allowable Subject Matter

6. Claims 8-14 are allowed.

7. The following is an examiner's statement of reasons for allowance:

Claim 8 is allowable over the prior art of record since the cited references taken individually or in combination fail to particularly disclose **establishing, via at least one of the at least one network node and at least one intermediate node, and during transmission of the data packets, a quality of the transmission based on acknowledgements indicating a quality grade, and comparing the quality of the transmission with a quality grade demanded by the data service; and assigning the data packets associated with the data service, depending on a result of the comparison, to another quality class of which the quality grade demanded by the data service is expected.**

It is noted that the closest prior art, McCloghrie et al. (US Patent 6286052 B1) shows a network with an end station connected to a host/server through intermediate devices in which data packets with different types of data services

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are assigned at the start of transmission, **to a quality class whereupon the data packets are handled with the intermediate nodes which forward the data packets (column 7 lines 38-51 in particular and also column 6 lines 59-67 and column 7 lines 1-37).** However, McClohire fails to disclose or render obvious the above underlined limitations as claimed.

Conclusion

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

- a. McClohire et al. (US Patent 6286052 B1) discloses a system within a computer network that identifies specific traffic flows and applies policy and service treatments upon the traffic flows.
- b. Weberhofer (US Patent 6014384) discloses a method for controlling data traffic in an ATM network in which each node in the network processes the cells separately based on the quality of service class which is predefined.
- c. Goldszmidt et al. (US Patent 6308216 B1) discloses routing apparatus which applies a routing policy on a packet based on the quality of service associated with the transaction.
- d. Bertin et al. (US Patent 5940372) discloses a process for selecting an optimal path in a packet switching network for transmission without bandwidth allocation.
- e. Vaid et al. (US Patent 6078953) discloses a method for controlling quality of service within a network of computers.

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f. Haddock et al. (US Patent 6678248 B1) discloses a mechanism for managing, monitoring and prioritizing traffic within a network to achieve quality of service.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jay P. Patel whose telephone number is (571) 272-3086. The examiner can normally be reached on M-F 9:00 am - 5:00 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ricky Q. Ngo can be reached on (571) 272-3139. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

jpp 12/03/04
Jay P. Patel
Assistant Examiner
Art Unit 2666


RICKY NGO
PRIMARY EXAMINER